

## **REMARKS**

This application has been reviewed in light of the Final Office Action mailed on September 20, 2005. Claims 1-5, 7, 9, 13-20, 22-24, 26-30, 32, 34-49, 51 and 53-58 are pending in the application with Claims 1, 13, 16, 34, 43, 53, 56 and 58 being in independent form. By the present amendment, Claims 6, 8, 21, 25, 31, 33, 50 and 52 have been cancelled, Claims 1, 7, 9, 13, 15, 22, 23, 24, 26, 28, 29, 32, 34, 36-43 and 51 have been amended, and Claims 53-58 have been added.

### **I. Allowance of Claims 24, 34-36 and 42**

Applicant gratefully acknowledges the allowance of Claims 24, 34-36 and 42, as well as the allowance of Claims 10-12 from the first Office Action, if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It is respectfully submitted that Claim 24 has been rewritten in independent form including all of the limitations of the base claim (cancelled Claim 21). Therefore, allowance of independent Claim 24 and its respective dependent Claims 22 and 23 is respectfully requested.

It is further respectfully submitted that Claim 34 has been rewritten in independent form including all of the limitations of the base claim (cancelled Claim 25) and any intervening claims (cancelled Claim 31). Therefore, allowance of new independent Claim 34 and its respective dependent Claims 26-30, 32 and 35-42 is respectfully requested.

Further still, it is respectfully submitted that new independent Claim 53 is analogous to cancelled Claim 10 as rewritten in independent form including all of the limitations of the base claim (Claim 1) and any intervening claims (original Claim 7). Therefore, allowance of new independent Claim 53 and its respective dependent Claims 54 and 55 is respectfully requested.

It is further respectfully submitted that new independent Claim 56 is substantially analogous to Claim 42 as rewritten in independent form including all of the limitations of the base claim (cancelled Claim 25) and any intervening claims (Claim 40). The following minor differences between Claim 56 and Claims 25 and 40 are brought to the Examiner's attention:

Claim 56 recites "at least one one-dimensional image sensor array" whereas cancelled Claim 25 recites "first and second image one-dimensional image sensor arrays." Additionally, Claim 56 recites "during the imaging operation for obtaining pixel data, a row of pixel data corresponds to at least a portion of the optical code or target" whereas cancelled Claim 25 recites "during the imaging operation for obtaining two rows of pixel data each row of pixel data corresponds to at least a portion of the optical code or target." Finally, Claim 56 recites "means for focusing different sets of the plurality of focal planes on the at least one one-dimensional imager sensor array" whereas Claim 40 recites "means for focusing different sets of the plurality of focal planes on the one-dimensional image sensor arrays." These differences are believed to be inconsequential and it therefore believed that Claim 56 is substantially analogous to Claim 42 as rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, allowance of Claim 56 and its respective dependent claim are respectfully requested.

It is also respectfully submitted that new independent Claim 58 is analogous to Claim 36 as rewritten in independent form including all of the limitations of the base claim (cancelled Claim 25). Therefore, allowance of new independent Claim 58 is respectfully requested.

## **II. Rejection of Claims 1-5, 7-9, 13-17, 19-23, 26-29, 31-33, 37-41 and 43-52 Under 35**

### **U.S.C. §103(a)**

Claims 1-5, 7-9, 13-17, 19-23, 26-29, 31-33, 37-41 and 43-52 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,138,915 issued to Danielson et al. on October 31, 2000 (“Danielson et al.”) in view of U.S. Patent Publication No. 2002/0008139A1 issued to Albertelli on January 24, 2002 (“Albertelli”). Claims 8, 21, 31, 33, 50 and 52 have been cancelled.

The Final Office Action states that the application currently names joint inventors before setting forth the rejection under 35 U.S.C. §103(a). It is respectfully submitted that the application only names one inventor, Mehul Patel.

Dependent Claims 22, 23, 26-30, 32 and 35-42 are allowable over the cited references due to their respective independent claims being in condition for allowance as discussed above. Accordingly, withdrawal of the rejection with respect to these dependent claims and allowance thereof are respectfully requested.

Independent Claims 1, 13 and 43 have been amended to better define Applicant’s invention and to overcome the cited rejection. The rejection with respect to independent Claim 16 is respectfully traversed.

Danielson et al. is directed to a handheld optical reader having automatic focus control for operation over a range of distances. One of the embodiments shown by Danielson et al. by FIG. 13 includes fixed mirrors 83A, 83B, 84A and 84B for reflecting light with respect to each other and fixed mirror segments 82A, 82B. The reflected light impinges upon one-dimensional photosensor arrays 13A, 13B connected to control and processing means 10A. Each photosensor array can obtain an image of the optical code or target at a different location than the other

photosensor array, so that for fixed positions of the lens barrels 90A, 90B, the depth of field of the reader is enlarged.

Albertelli is directed to a digital imaging system for optical character recognition and other applications. According to Albertelli, the system is capable of providing constant magnification and resolution of well-focused images over a significant range of focus and object to lens distances and over a wide field of view.

Neither Danielson et al. nor Albertelli disclose or suggest features recited by independent Claims 1, 13, 16 and 43. In particular, with respect to Claims 1, 13 and 43, neither Danielson et al. nor Albertelli disclose or suggest the recitations: “wherein the lens assembly includes a plurality of optical elements for further focusing the image on at least one of the first and second one-dimensional image sensor arrays, and wherein the plurality of optical elements overlay at least a portion of at least one of the first and second one-dimensional image sensor arrays,” as recited by Applicant’s Claim 1 and similarly recited by Applicant’s Claims 13 and 43. (Emphasis added) This underlined recitation was recited by Applicant’s cancelled Claims 8 and 52. Therefore, it is respectfully submitted that a new search is not required and allowance of independent Claims 1 and 43 is respectfully requested.

With respect to Claim 16, neither Danielson et al. nor Albertelli disclose or suggest “a carrier having a plurality of optical elements configured for positioning at least one of the plurality of optical elements along the optical axis for focusing an image of the optical code or target on the one-dimensional image sensor array for obtaining a row of pixel data corresponding to at least a portion of the optical code or target,” as recited by Applicant’s Claim 16. (Emphasis added) The underlined recitation is similar to recitations recited by Applicant’s cancelled Claim 10 and Claim 34 which the Examiner respectively states in the first Office Action and the Final Office Action

recite allowable subject matter. Therefore, it is respectfully submitted that a new search is not required and allowance of independent Claim 16 is respectfully requested.

Based at least on the above reasons, a new search is not required and Applicant's independent Claims 1, 13, 16 and 43 are believed to be patentable over Danielson et al. and Albertelli, taken alone or in any proper combination. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to independent Claims 1, 13, 16 and 43 and allowance thereof are respectfully requested.

Applicant's dependent Claims 2-5, 7, 9, 14, 15, 17, 19, 20, 44-49 and 51 depend from Claims 1, 13, 16 and 43, and therefore include the limitations of Claims 1, 13, 16 and 43. Therefore, for at least the same reasons given above for Claims 1, 13, 16 and 43, Claims 2-5, 7, 9, 14, 15, 17, 19, 20, 44-49 and 51 are believed to be allowable over Danielson et al. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 1-5, 7-9, 13-17, 19, 20, 43-49 and 51 and allowance thereof are respectfully requested.

### **III. Rejection of Claims 6 and 30 Under 35 U.S.C. §103(a)**

Claims 6 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Danielson et al. further in view of U.S. Patent No. 6,540,361 issued to Hayashi on April 1, 2003 (“Hayashi”). Claim 6 has been cancelled.

Applicant's dependent Claim 30 depends indirectly from independent Claim 34, and therefore include the limitations of Claim 34. Therefore, for at least the same reasons given in Section I above for Claim 34, Claim 30 is believed to be allowable over Danielson et al. in view of Hayashi. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claim 30 and allowance thereof are respectfully requested.

#### **IV. Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that a new search is not required and that all claims presently pending in the application, namely, Claims 1-5, 7, 9, 13-20, 22-24, 26-30, 32, 34-49, 51 and 53-58, are in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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